

## Information Regarding Property Bonds

The following information is intended to assist with the filing of an Application for Real Property Equity Bond with the El Dorado County Superior Court (Penal Code sections 1278; 1279; 1280 and 1298).

**Important Note: Before a deposit of equity of real property in lieu of money may be accepted as bail, the Court must find that the Equity in the property is equal to twice the amount of the required bail.**

After the documents have been reviewed by the court and the application has been approved, it is the responsibility of the party bringing the application to record the Deed of Trust and Request for Notice with the appropriate County Recorder's Office and provide proof of that recording to the Court. Proof of recording consists of a copy of the documents submitted for recordation stamped by the Recorder's Office with confirmation that they were accepted for recording.

### **Specific Steps for Applying for and Posting a Real Property Bond:**

1. **Complete the following forms:** All documents must be originals and submitted on specified court forms.

- A. **Application for Real Property Equity Bond and Declaration of Property Owner(s)** (CR-150).
  - a. Must include full legal description of property.
  - b. Current market value of property.
  - c. List of all encumbrances and liens with supporting documentation.
  - d. Amount of equity must be at least twice the amount of the bail.
  - e. Present the Application and assorted documents to the court for a hearing date and time.
- B. **Promissory Note** (CR-151).
  - a. Promissory Note must be notarized.
  - b. Note must be made out for the sum amount of bail.
- C. **Order Approving Property Bond** (CR-152).
  - a. Fill in only case caption. Leave remainder blank.

### **2. Additional Requirements and Supporting Documents:**

- A. **Deed of Trust with All Purpose Acknowledgement** (Civil Code section 1189)
  - a. The name of the Trustee is "Court Executive Officer of the El Dorado Superior Court."
  - b. The name of the beneficiary is "El Dorado County."
  - c. Address of the appropriate court division must be on the face of the Deed with case number in section entitled "and when recorded mail this ....deed to"

**B. Current Appraisal**

- a. Must show fair market value dated within 6 months prior to the hearing.
- b. Appraiser must be certified by the State of California Office of Real Estate Appraisers.
- c. The Appraiser's license number must be on the appraisal.

**C. Preliminary Title Report**

- a. Must be from a California title company.
- b. Must be dated within 30 days prior to the hearing.
- c. All property taxes must be paid.
- d. A Lot Book Report or Property Profile is not acceptable.

**D. Proof of Insurance on property (fire)**

- a. Fire insurance is required covering the replacement value of any structures or other improvements on the property. This requirement will be waived where the site value is more than 1/2 of the property value. If the property is a single family dwelling a copy of the declarations page of a homeowner's policy is acceptable proof of insurance. In the case of a condominium, the declarations page of the policy for the condominium complex will be required.
- b. The County of El Dorado must be named as an additional insured on all required policies.

**E. Request for Notice (Civil Code section 2924b)**

- a. Must be notarized.

**F. Proof of Personal Service**

- a. You must personally serve a copy of the filed Application and all supporting documentation on the District Attorney and County Counsel fifteen days prior to the hearing.
- b. You must submit the Proof of Personal service to the court for filing prior to the hearing.

**3. Hearing**

At the hearing, you must prove that the property has not been encumbered between the date of the Title Report and the Date of the hearing. The court will decide the sufficiency of the proof upon any objection raised by the County or the District Attorney.

**4. Recording**

If the property bond is approved, the Order will be signed. The Deed of Trust, Certificate of Acceptance and the Request for Copy of Notice of Default and sale will be returned to you, along with a copy of the Order for Recording. It is YOUR responsibility to record the Deed of Trust, Certificate of Acceptance and Request for Notice with the County Recorder's Office in the

county where the real property is located. After recording, you MUST provide proof of that recording with the court. Upon submitting to the court proof of recordation, consisting of a copy of the documents submitted for recordings, stamped by the Recorder's Office with confirmation that they were accepted for recording, an order for the release of the defendant will be prepared by the court and forwarded to the jail.

**5. Safekeeping of the Promissory Note and Deed of Trust.**

The clerk insures that the promissory note and the recorded deed of trust are kept in the clerk's safe or otherwise maintained to ensure their retention.

**6. If bail is exonerated by the Court.**

A. An entry is made indicating that the bail has been exonerated and that the promissory note and deed of trust have been released.

B. You must submit a Request for Reconveyance to the Executive Officer of the Court. The Executive Officer or designated representative, pursuant to the authority of the County Board of Supervisors, signs the Request for Reconveyance.

C. After filing copies in the file, the clerk sends the promissory note, deed of trust and executed Request for Reconveyance to the applicant via certified mail and return receipt requested. The applicant must sign acknowledge of receipt of the documents. Applicant must record the Deed of Reconveyance with the County Recorder's office to release the lien.